

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

E-FILED - 10/19/06

DAVID FLETCHER, et al,
Plaintiffs,
vs.
TERRY SOLOMON, et al.,
Defendants.

CASE NO. C06 05492 RMW RS

**STIPULATION AND ~~PROPOSED~~
ORDER RE: SCHEDULE FOR
PRELIMINARY MOTIONS AND INITIAL
CASE MANAGEMENT CONFERENCE**

WHEREAS, plaintiffs have filed a motion for remand, which has been noticed for hearing on November 3, 2006;

WHEREAS, defendants Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch") (erroneously sued as "Merrill Lynch & Co.") and Irene Ng ("Ng") have filed a motion to dismiss the Complaint, which has been noticed for hearing on December 1, 2006;

WHEREAS the parties have met and conferred regarding briefing schedules for these motions;

WHEREAS unforeseen circumstances have arisen that make the December 1, 2006 date currently set for the hearing on the motion to dismiss the Complaint mutually inconvenient for the parties and for counsel;

WHEREAS the Court has currently scheduled an Initial Case Management Conference for Friday, December 15, 2006 at 10:30 a.m.;

WHEREAS the parties desire to avoid efforts related to the Initial Case Management Conference that may be mooted by the motions the parties intend to file, and therefore wish to postpone the Initial Case Management Conference until such time as the Court decides the motions the parties intend to file,

NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AND REQUEST THAT THE COURT APPROVE THE FOLLOWING SCHEDULE FOR PRELIMINARY MOTIONS AND THE INITIAL CASE MANAGEMENT CONFERENCE:

1. Plaintiffs' Motion to Remand

The hearing date shall be November 3, 2006. Defendants' opposition brief and plaintiffs' reply brief shall be filed in accordance with Civil Local Rule 7-3 (on or before October 13, 2006 and October 20, 2006 respectively).

2. Defendants Merrill Lynch and Irene Ng's Motion to Dismiss

The hearing date shall be moved from December 1, 2006 to December 15, 2006.

Plaintiffs' opposition brief shall be due on November 3, 2006.

Defendants' reply brief shall be due on December 1, 2006.

3. Initial Case Management Conference

The Initial Case Management Conference, originally scheduled for Friday, December 15, 2006 at 10:30 a.m., is continued ~~until 45 days after the Court rules on the motion to dismiss~~ to February 23, 2007 @ 9:00 a.m. (jg)

1 DATED: September 25, 2006

MUNGER, TOLLES & OLSON LLP

2
3 By: /S/
BLANCA F. YOUNG

4 Attorneys for Defendant
5 MERRILL LYNCH, PIERCE, FENNER &
6 SMITH INCORPORATED

7 DATED: September 25, 2006

COHEN & GRESSER LLP

8
9 By: /S/
GLORIA FLORES

10 Attorneys for Defendant
11 IRENE NG
BUSTAMANTE, O'HARA & GAGLIASSO

12 DATED: September 25, 2006

13 By: /S/
14 IGNACIO CAMARENA

15 Attorneys for Plaintiffs

16 **ORDER**

17 GOOD CAUSE APPEARING THEREFORE, IT IS SO ORDERED.

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19 Dated: 10/19/06

/s/ Ronald M. Whyte
HON. RICHARD M. WHYTE
UNITED STATES DISTRICT JUDGE